D.B. CIVIL SPECIAL APPEAL (w) NO.477/2006
(Central Bank of India & Ors. Vs. T.C. Taparia)

Date of order : 21.11.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Sanjay Mathur, for the appellant.
Mr. M. Mridual, Senior Advocate for Caveator.

We have heard learned counsel for the appellant as well as Caveator.

The undisputed facts as emerged from the order under appeal and about which there is no dispute are that respondent-petitioner was granted promotion w.e.f. 1.1.1985 by order dated 13.8.1997. However, no benefits of promotion were granted w.e.f. that date. The learned Single Judge in his order after noticing the chequered history of the case observed that the petitioner has confined his grievance to his claim to consequential benefits flowing from the order passed by the respondent Bank, Annexure-12 dated 13.8.1997. Pending disposal of the writ petition, the petitioner has been promoted from Junior Management Grade I to the Medium Management Grade II w.e.f. 1.1.1985 but then he has not been awarded emoluments, and consequential benefits flowing from his promotion w.e.f. 1.1.1985 and that consequent to the petitioner's promotion w.e.f. 1.1.1985 by order dated

13.8.1997, for the interregnum period the petitioner was required to be considered for further promotion though the petitioner was retired on 31.7.1998. Petitioner was not considered for promotion since 1985 because of the pendency of some departmental enquiry which admittedly terminated on 13.9.1985. The petitioner had been conveyed that petitioner had been found suitable for promotion but the promotion could be made if the disciplinary action was not in progress against him on the same terms in which other officers, who have been promoted and their promotion is subject to the order dated 18.5.1988 passed by High Court in SB Civil Writ Petition No.1381/1981 notwithstanding the disciplinary proceedings having been concluded on 13.9.1985.

It is in the aforesaid circumstances, the learned Single Judge had observed that the Bank had deliberately kept sitting tight over the matter and did not offer the petitioner promotion due to him which he was entitled to be promoted to the Medium Management Grade-II w.e.f. 1.1.1985 from which date he has been actually promoted. There was no justifiable reason for not giving the promotion immediately after termination of the disciplinary proceedings on 13.9.1985.

Thus for no fault of the petitioner and solely on the ground of obduracy of the respondents,

the petitioner was not given the actual promotion till 31.8.1997. Therefore, he ought not to be denied whole of the benefits flowing from promotion w.e.f. 1.1.1985. The petitioner having been found suitable for promotion on the post of Medium Management Grade II during the period of enquiry and termination of enquiry having taken place in favour of the petitioner, there was no impediment in granting all the benefits in terms of the order passed by learned Single Judge. He having been found suitable still effect to it was not given merely awaiting decision of the writ petition pending in respect of some other matter.

We are of the opinion that in these circumstances there is no reason to interfere with the order passed by learned Single Judge granting the consequential benefits to the petitioner retrospectively, withholding of which was not justifiable.

Accordingly, we do not find any merit in this appeal and the same is hereby dismissed.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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